

**REMARKS/ARGUMENTS**

Claims 1-4 were pending in the present application. The present response amends claims 1, 3, and 4, and adds new claims 5-9, leaving pending in the application claims 1-9. Reconsideration of the rejected claims and consideration of the newly presented claims is respectfully requested.

**I. Objection to the Information Disclosure Statement**

In the Office Action, the Examiner objected to the information disclosure statement on the grounds that certain references which had been cited in a prior parent application were not available. The Examiner requested that the references be provided. In response thereto, Applicants enclose copies of all the references which the Examiner indicated he had not received. A new PTO-1449 has been included for the convenience of the Examiner. To avoid any confusion in the office, Applicants have paid the fee for consideration of the prior art, even though the fee should not be necessary.

**II. Objection to the Specification**

The specification is objected to as improperly incorporating subject matter into the application, particularly at pages 68-122 of the application. Applicants have amended to specification to delete pages 69-122 of the original specification. Applicants have also replaced the last paragraph on page 68 to state that these deleted pages appear in the related PCT application, are incorporated therein by reference, and do not contain material essential to the specification that is not otherwise included therein. Applicants therefore respectfully request that the objection to the specification be withdrawn.

**III. Double Patenting Rejection**

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U. S. Patent No. 5,988,862. Claims 1-4 as amended recite an apparatus for obtaining positional information that utilizes a control signal generated by a video module in targeting the scanning module. The control signal can cause the scanning module to target the object selectively (claims 1-3), and/or to scan a selected portion of the object (claim 4). Such limitations are not recited in the claims of

the 5,988,862 patent. Further, none of the present claims recite a model or modeling module as required in the claims of US Patent No. 5,988,862. It is therefore respectfully submitted that the claims of the present invention are patentably distinct from the claims of US Patent No. 5,988,862. Applicants therefore respectfully request that the rejection with respect to claims 1-4 be withdrawn.

#### IV. Rejection under 35 U.S.C. §102

Claims 1-4 are rejected under 35 U.S.C. §102(b) as being anticipated by *Kitoh* (U.S. No. 5,402,364). Claim 1 as amended recites an apparatus defined by:

a scanning module for measuring three dimensional information about an object;  
a video module for capturing and displaying image information from the object, the  
video module operable to generate a control signal corresponding to the image information;  
and  
a processor operating with the scanning and video modules, the processor being operable to  
receive the control signal from the video module for use in selectively targeting the scanning module.

(*emphasis added*). Such limitations are not disclosed by *Kitoh*. *Kitoh* discloses an apparatus wherein a laser scanner “sequentially irradiates a plurality of spots” on an object to form “measurement points” that are measured by a pair of CCD cameras (Abstract; col. 2, lines 5-32; col. 3, lines 41-68). The laser beam of the *Kitoh* scanner “sequentially shifts over the surface B” in accordance with the predetermined locus in order to fully scan the measureable surface B” (col. 4, lines 9-15). The measurement data is captured by the CCD cameras, which form part of the scanning module (Abstract; claim 1; col. 1, lines 8-12; col. 2, lines 3-33). *Kitoh* does not disclose a separate video module for generating a control signal corresponding to captured image information as required by Applicants’ claim 1. Further, *Kitoh* does not disclose using a control signal corresponding to the captured image information to selectively target the scanning module, as required by Applicants’ claim 1. As such, *Kitoh* cannot anticipate claim 1. Claim 2 depends from claim 1 and also cannot be anticipated.

Claims 3 and 4 also require a separate video module operable to generate a control signal corresponding to the image information, which is used to selectively refine the targeting of the object being scanned (claim 3) or select a portion of the object to be scanned (claim 4). Such limitations are not disclosed by *Kitoh*. As such, *Kitoh* cannot anticipate claims 3 and 4.

Applicants therefore respectfully request that the rejection with respect to claims 1-4 be withdrawn.

**V. Amendment to the Claims**

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter to the specification.

**VI. Newly Presented Claims**

Claims 5-9 have been added to cover different aspects of the present invention. These claims are supported by the specification and do not add new matter. Applicants therefore respectfully request consideration of newly presented claims 5-9.

**VII. Conclusion**

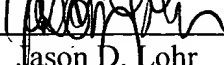
In view of the above, it is respectfully submitted that the application is now in condition for allowance. Reconsideration of the pending claims and a notice of allowance is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-1703, under Order No. KYRA-410 US4. **A duplicate copy of the transmittal cover sheet attached to this Response to Office Action Mailed March 10, 2004, is provided herewith.**

Respectfully submitted,

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